

GEORGE A. ROGERS

NOVEMBER 4 (legislative day, OCTOBER 25), 1943.—Ordered to be printed

Mr. ROBERTSON, from the Committee on Claims, submitted the following

REPORT

[To accompany S. 817]

The Committee on Claims, to whom was referred the bill (S. 817) for the relief of George A. Rogers, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The purpose of the proposed legislation is to pay to George A. Rogers, of Bellingham, Wash., the sum of \$278.90 in full satisfaction of his claim against the United States for expenses incurred as the result of an accident involving a Government truck operated in connection with the Civilian Conservation Corps.

STATEMENT OF FACTS

Mr. George A. Rogers and three passengers were riding in Mr. Rogers' car shortly after midnight on March 27, 1938, when a Civilian Conservation Corps truck collided with it. Each sustained personal injuries and the car was damaged. The Civilian Conservation Corps truck was being driven by an unauthorized enrollee. With him in the cab were another enrollee and two young girls, who were returning from a dance. The driver and other enrollee had taken the truck in disobedience of specific orders, and used it for this private purpose.

The Honorable Paul V. McNutt, Administrator of the Federal Security Agency, in his report stated:

There seems to be little question but that the cause of the collision is attributable solely to the negligence of the Civilian Conservation Corps enrollees. The truck was being driven in excess of the local speed ordinance, and the three other persons in the cab were so seated as to completely obstruct the driver's view from the right, so he did not see Mr. Rogers' car until the time of the impact. * * * \$278.90 * * * would appear to be well within the amount of actual damages suffered by Mr. Rogers.

It is the belief of your committee that the accident occurred through no fault or negligence on the part of Mr. Rogers, and therefore recommend that the bill do pass.

Attached hereto is the report of the Federal Security Agency, together with other pertinent evidence. There are additional affidavits and accident reports on file with the Secretary of the Senate.

FEDERAL SECURITY AGENCY,
Washington, September 24, 1943.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Claims,
United States Senate, Washington 25, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 817, a bill for the relief of George A. Rogers and for copies of papers on file material relating to the case. Photostats of all such papers are enclosed herewith.

Mr. George A. Rogers, Mrs. Virginia Pearson, Mr. Ellis Rogers, and Miss Juanita Caza, riding in Mr. George A. Rogers' car shortly after midnight on March 27, 1938, each sustained personal injuries, and the car itself was damaged, because of a collision between it and a Civilian Conservation Corps truck, occurring at the intersection of Maple and Jersey Streets, Bellingham, Wash.

This Civilian Conservation Corps truck was being driven by Civilian Conservation Corps enrollee Carl A. Borton, who was not an authorized driver. With him in the cab were Civilian Conservation Corps enrollee Woodrow Rogers, Miss Jane Thayer, and Miss Dorothy Spencer, each of whom received personal injuries. These four were returning from a dance. The driver and the other enrollee had taken the truck in disobedience of specific orders, and used it for this private purpose.

There seems to be little question but that the cause of the collision is attributable solely to the negligence of the Civilian Conservation Corps enrollees. The truck was being driven in excess of the local speed ordinance, and the three other persons in the cab were so seated as to completely obstruct the driver's view from the right, so he did not see Mr. Rogers' car until the time of the impact.

The board of officers who held a hearing, found as correct Mr. George A. Rogers' claim totaling \$436.90 based on (1) loss of time (26 working days, \$208); (2) medical services, \$75.90; (3) loss of clothing, \$15; and (4) damage to auto, \$138. The record also notes that there are claims of Mr. Ellis Rogers, Miss Dorothy Spencer, Mrs. Virginia Pearson, and Miss Juanita Caza, each for property damage and personal injuries sustained by them, respectively.

Mr. Rogers' claim was disallowed on the ground "that the Government driver was not acting within the scope of his employment at the time of the accident, a condition precedent and necessary to bring the claim within the provisions of any of the acts available to the War Department for settlement of claims of this nature."

S. 817 would provide for the payment of \$278.90, which would appear to be the total of the above-mentioned items, except the \$208 item for loss of time, and \$50 in lieu of the \$208 item. This amount would appear to be well within the amount of actual damages suffered by Mr. Rogers.

The basic question raised by this claim is that of Federal responsibility for injuries occurring under circumstances surrounding the case. In view of the fact that the Civilian Conservation Corps enrollees were youths and as such require more supervision and direction than adults, I examined the file in this case with a view of ascertaining whether their supervising officers might have been in any way negligent in making it possible for the enrollees to have possession of the Civilian Conservation Corps truck at the time of the accident. The file, however, discloses that the truck was sent on a necessary mission and that at the conclusion thereof the instructions were clear that it should be taken to a nearby Civilian Conservation Corps camp the night of the accident. Enrollee Rogers' testimony makes it clear that he knowingly violated instructions in taking the girls in the truck, in permitting more than two persons to occupy the cab, in permitting the other enrollee to use the truck, in not taking the truck to camp as instructed, and in using it for recreational purposes. Enrollee Borton's testimony is to similar effect.

The question involved accordingly raises an issue much broader than matters within my jurisdiction. The question is equally applicable to all governmental activities in which property, such as trucks, may be used by employees of the Government for private purposes, and persons injured in the course of such use. I do not believe it would be appropriate for me, as Federal Security Administrator, to make recommendation to the Congress as to the policy which should be followed in dealing with this broad question.

The Bureau of the Budget advises that there is no objection to the submission of this report to your committee.

Sincerely yours,

PAUL V. McNUTT, Administrator.